HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Misc. Application No. 810 of 2001
(Old No.2272/1996)

Ram Pratap Mishra ……..Applicant

Vs.

Dinesh Thapa and State of U.P. ……..Respondents

Hon'ble Irshad Hussain, J.

None appear for the parties, namely, the applicant and respondent no.1. As per the report of the CJM concerned, the applicant is not traceable and respondent no.1 has gone abroad and his address is not also available. Heard Sri Nandan Arya learned A.G.A. and perused the record.

The petition under section 482 of the Code of Criminal Procedure (for short 'Code') has been filed for quashing of the proceedings of the criminal case no. 438/1994 under section 500 & 501 I.P.C. The complaint case, at the instance of the respondent no.1, was registered before the Addl. CJM, Dehradun and the same was numbered as 382/1994; Dinesh Thapa Vs. Ram Pratap Mishra and others. The said complainant had urged that on account of news item published in "Doon Valley" on 11.4.1994 a wild allegation was made that the students of the English Medium Schools are being spoiled after taking heavy drugs. Some schools of Jakhan were also referred but particularly the name of the school run by the complainant was not disclosed in the said news item. The news item was captioned as "Drug addiction is in vague in Jakhan area". From perusal of the contents of the news item as produced in the written complaint, it is evidence that the news item was merely an informative article and there cannot be any doubt the menace of drugs among the students was being noticed by the public and the guardians at large and if the malady was highlighted in the news item there was apparently no intention to harm or injure the reputation of any particular school or person.

In the face of the above factual aspects and prevailing social circumstances, there can be no doubt that the news item was merely

published to give warning in the public and there was absolutely no intention to defame any person or of the complainant, respondent no.1. The filing of the criminal complaint and taking cognizance on the same against the applicant and others was nothing but mere abuse of the process of the court and the order being misconceived the same is liable to be set-aside.

For the reasons aforesaid thereof, the petition is allowed and the criminal proceedings in case no. 438/1994 under section 500 & 501 I.P.C.; Dinesh Thapa Vs. Ram Pratap Mishra and others are hereby quashed.

(Irshad Hussain, J.)

Dated 07.06.2004

Rawat